

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ariel Courage	Team: Squad #6	CCRB Case #: 201601113	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 12/06/2015 12:15 AM	Location of Incident: Inside of § 87(2)(b)	Precinct: 26	18 Mo. SOL 6/6/2017	EO SOL 6/6/2017	
Date/Time CV Reported Mon, 02/01/2016 6:29 PM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Mon, 02/08/2016 11:25 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Raghoenathsingh	12105	956185	HBM IRT
2. POM Sajit Tomy	7575	955585	HBM IRT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Sujin Samuel	01735	939410	HBM IRT

Officer(s)	Allegation	Investigator Recommendation
A.POM Brian Raghoenathsingh	Abuse: Police Officer Brian Raghoenathsingh stopped § 87(2)(b)	
B.POM Sajit Tomy	Abuse: Police Officer Sajit Tomy stopped § 87(2)(b)	
C.POM Brian Raghoenathsingh	Abuse: Police Officer Brian Raghoenathsingh frisked § 87(2)(b)	
D.POM Sajit Tomy	Abuse: Police Officer Sajit Tomy frisked § 87(2)(b)	
E.POM Brian Raghoenathsingh	Abuse: Police Officer Brian Raghoenathsingh searched § 87(2)(b)	
F.POM Sajit Tomy	Abuse: Police Officer Sajit Tomy searched § 87(2)(b)	
G.POM Brian Raghoenathsingh	Abuse: Police Officer Brian Raghoenathsingh stopped § 87(2)(b)	
H.POM Sajit Tomy	Abuse: Police Officer Sajit Tomy stopped § 87(2)(b)	
I.POM Brian Raghoenathsingh	Abuse: Police Officer Brian Raghoenathsingh questioned § 87(2)(b)	
J.POM Sajit Tomy	Abuse: Police Officer Sajit Tomy questioned § 87(2)(b)	
K.POM Brian Raghoenathsingh	Abuse: Police Officer Brian Raghoenathsingh frisked § 87(2)(b)	
L.POM Brian Raghoenathsingh	Abuse: Police Officer Brian Raghoenathsingh searched § 87(2)(b)	

### Case Summary

On January 15, 2016, Manhattan Borough President Gale Brewer filed this complaint on behalf of a constituent, § 87(2)(b) via a letter addressed to Commissioner Bratton (BR 01). On February 1, 2016, this letter was forwarded via email to IAB. On February 8, 2016, this complaint was referred to the CCRB (BR 02). An investigation was simultaneously conducted by the NYPD Housing Bureau Investigations Unit (BR 03).

On December 6, 2015, at approximately 12:15 a.m., § 87(2)(b) went to § 87(2)(b) in Manhattan to visit his friend, § 87(2)(b). In the lobby elevator of § 87(2)(b), § 87(2)(b) was stopped by PO Brian Raghoenathsingh and PO Sajit Tomy of Housing Bureau Manhattan Impact Response Team (**Allegations A and B**). PO Raghoenathsingh and PO Tomy both allegedly frisked and searched § 87(2)(b) (**Allegations C, D, E, and F**). PO Raghoenathsingh and PO Tomy allegedly recovered marijuana from § 87(2)(b) and § 87(2)(b) was arrested for § 87(2)(b) (BR 05). § 87(2)(b) then called § 87(2)(b). PO Raghoenathsingh answered § 87(2)(b)'s cell phone and told § 87(2)(b) to come to the stairwell. When § 87(2)(b) appeared, PO Raghoenathsingh and PO Tomy stopped § 87(2)(b) (**Allegation G and H**). PO Raghoenathsingh allegedly asked § 87(2)(b) if he had any marijuana on his person (**Allegation I**), and PO Tomy acknowledged asking § 87(2)(b) if he was armed (**Allegation J**). PO Raghoenathsingh frisked and searched § 87(2)(b) (**Allegations K and L**). § 87(2)(b) was ultimately released with a summons for § 87(2)(b) (BR 04).

There is no video footage of this incident.

On June 7, 2016, this case was reassigned from Inv. Landino to Inv. Courage.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint § 87(2)(b).
- As of June 14, 2016, § 87(2)(b) has not filed a Notice of Claim with respect to this incident (BR 06).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) (BR 09) and § 87(2)(b) (BR 30).
- PO Raghoenathsingh has been a member of the service for two years. There are three prior allegations against PO Raghoenathsingh stemming from two complaints, both of which occurred in August of 2015. None of these allegations was substantiated.
- PO Tomy has been a member of the service for two years. There are 10 prior allegations against PO Tomy stemming from one complaint that occurred in January of 2016, the following of which were substantiated:

- In CCRB case 201600151, allegations of gun pointed, two allegations of force: gun as club, and an allegation of a stop were substantiated. The Board recommended command discipline B. The NYPD disposition is pending.

### **Potential Issues**

- Because the CCRB did not receive this complaint until February of 2016, approximately two months after the incident date, § 87(2)(g)
- It is undisputed that § 87(2)(b)'s friend, § 87(2)(b) was arrested by PO Raghoenathsingh inside of § 87(2)(b) at 12:29 a.m. on December 6, 2015.

§ 87(2)(g)

§ 87(2)(b) claimed that § 87(2)(b) was present, while PO Raghoenathsingh and PO Tomy both claimed that they did not encounter § 87(2)(b) until after they had finished their encounter with § 87(2)(b)

§ 87(2)(b) declined to provide § 87(2)(b)'s contact information to the CCRB, claiming that § 87(2)(b) had told him not to provide it because he did not want to get involved. In the absence of any other contact information for § 87(2)(b) three letters were sent to a partial address located from his arrest report between February 12, 2016, and February 24, 2016, all of which were returned as undeliverable.

On June 23, 2016, a subpoena to SPRINT returned a cell phone number for § 87(2)(b) and a more thorough review of an LN/CLEAR request returned a complete address for § 87(2)(b). On June 29, 2016, the Housing Bureau Investigations Unit case file was returned, which confirmed this cell phone number and address for § 87(2)(b). Between June 27, 2016, and July 11, 2016, the investigation placed five calls to § 87(2)(b)'s number. Each time, either voice messages were left or a male answered who identified himself as § 87(2)(b) but who terminated the call abruptly before any questions could be asked. On June 27 and July 5, 2016, two please-call letters were mailed to § 87(2)(b) neither of which was returned as undeliverable.

On July 12, 2016, this case was closed and sent to panel for review. On August 12, 2016, § 87(2)(b) contacted the CCRB, stating that he had received a letter threatening him with a fine or jail if he failed to cooperate. While the CCRB did not send § 87(2)(b) this letter, the investigation took a telephone statement from him (BR 31) and interviewed him in-person (BR 32).

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

- § 87(2)(b) described the officer who physically stopped him, questioned him, and placed him into handcuffs, as an Asian or more specifically Indian male in his late 20s to early 30s, 5'11" tall, average build, black hair, brown eyes, with a five o'clock shadow, and uniformed. Of PO Tomy and PO Raghoenathsingh, PO Raghoenathsingh, an Asian male, 6'0" tall, 190 pounds, with black hair and brown eyes (BR 10), most closely matches the provided description. Although neither PO Tomy nor PO Raghoenathsingh acknowledged questioning § 87(2)(b) based upon the provided description, this allegation has been pleaded against PO Raghoenathsingh.

§ 87(2)(b) described the officer who frisked him and searched him, and who wrote him a summons, as an Asian or more specifically Indian male with a dark complexion, about 5'8" tall, with average build, black spiked hair, brown eyes, in his mid-20s, uniformed, and who spoke with an Indian accent. Of PO Tomy and PO Raghoenathsingh, PO Tomy, an Asian male, 5'8" tall, 180 pounds, with black hair and brown eyes (BR 11), who issued the summons to § 87(2)(b) most closely matches the provided description.

§ 87(2)(b) (BR 31 to 32) generally confirmed § 87(2)(b)'s descriptions, and corroborated that it was PO Tomy who frisked, searched, and issued a summons to § 87(2)(b).

However, PO Tomy and PO Raghoenathsingh both said that PO Raghoenathsingh performed the frisk of § 87(2)(b).

§ 87(2)(g)

#### **Allegations not pleaded**

- § 87(2)(g)

**Allegation A – Abuse of Authority: Police Officer Brian Raghoenathsingh stopped** § 87(2)(b)

**Allegation B – Abuse of Authority: Police Officer Sajit Tomy stopped** § 87(2)(b)

**Allegation C – Abuse of Authority: Police Officer Brian Raghoenathsingh frisked** § 87(2)(b)

**Allegation D – Abuse of Authority: Police Officer Sajit Tomy frisked** § 87(2)(b)

**Allegation E – Abuse of Authority: Police Officer Brian Raghoenathsingh searched** § 87(2)(b)

**Allegation F – Abuse of Authority: Police Officer Sajit Tomy searched** § 87(2)(b)

It is not disputed that PO Raghoenathsingh arrested § 87(2)(b) inside of § 87(2)(b).

§ 87(2)(g)

§ 87(2)(b) (BR 31 and 32) said that on December 6, 2015, at approximately 12:15 a.m., he went to visit his friend, § 87(2)(b) at § 87(2)(b)'s building, § 87(2)(b) in Manhattan. § 87(2)(b) was carrying a small, five-dollar plastic bag of marijuana in his front left pants pocket. § 87(2)(b) did not believe he smelled of marijuana. § 87(2)(b) never carried the marijuana so that it was visible to public view.

§ 87(2)(b) entered the elevator and hit the button for the § 87(2)(b) floor, where § 87(2)(b) lived. Two police officers, PO Raghoenathsingh and PO Tomy, followed § 87(2)(b) into the elevator. PO Raghoenathsingh asked § 87(2)(b) if he lived in the building. § 87(2)(b)

said he did not. PO Raghoenathsingh asked § 87(2)(b) what he was doing. § 87(2)(b) told PO Raghoenathsingh that he was going to visit a friend.

PO Raghoenathsingh and PO Tomy pressed the button for the § 87(2)(b) floor and got out with § 87(2)(b). Once out of the elevator, PO Raghoenathsingh frisked § 87(2)(b)'s left side while PO Tomy frisked § 87(2)(b)'s right side. PO Raghoenathsingh then reached into § 87(2)(b)'s front left pants pocket while PO Tomy reached into § 87(2)(b)'s front right pants pockets. PO Raghoenathsingh recovered the marijuana from § 87(2)(b) at this time. § 87(2)(b) was then handcuffed. § 87(2)(b) was not carrying identification on his person. § 87(2)(b) denied providing a false name to the officers.

PO Raghoenathsingh then asked § 87(2)(b) where he had been planning on meeting his friend. § 87(2)(b) told PO Raghoenathsingh that he planned to meet him at the § 87(2)(b) floor stairwell.

PO Raghoenathsingh and PO Tomy escorted § 87(2)(b) to the § 87(2)(b) floor stairwell. § 87(2)(b) called § 87(2)(b) as § 87(2)(b) was taking too long. PO Raghoenathsingh, who had previously confiscated § 87(2)(b)'s cell phone, was holding it when § 87(2)(b) called. PO Raghoenathsingh told § 87(2)(b) "Okay, when I answer the phone, tell him to come to the stairs." PO Raghoenathsingh answered and held the phone to § 87(2)(b)'s face, but § 87(2)(b) said nothing. PO Raghoenathsingh then held the phone up to his own mouth and told § 87(2)(b) to come the stairwell. Once § 87(2)(b) came into the stairwell, PO Raghoenathsingh and PO Tomy stopped him.

§ 87(2)(b) (BR 12 and 13) said he was not present to see § 87(2)(b)'s initial interaction with PO Raghoenathsingh and PO Tomy, but confirmed that when he called § 87(2)(b) an unfamiliar voice answered and instructed him to come to the stairwell, and that when § 87(2)(b) arrived to the stairwell, he saw that § 87(2)(b) had already been placed into handcuffs.

PO Raghoenathsingh (BR 14) said that he and PO Tomy first encountered § 87(2)(b) alone in the stairwell at 12:10 a.m. while conducting a vertical patrol inside of § 87(2)(b). At 12:15 a.m., PO Tomy issued § 87(2)(b) a summons. PO Raghoenathsingh and PO Tomy then observed their vertical patrol. At 12:20 a.m., PO Raghoenathsingh and PO Tomy encountered § 87(2)(b) who was waiting for the elevator on the § 87(2)(b) floor. § 87(2)(b) was speaking on his cell phone in one hand and holding a bag of marijuana in the other. PO Raghoenathsingh and PO Tomy approached § 87(2)(b) and asked if he lived in the building. § 87(2)(b) said he did not live in the building, but had friends who did. § 87(2)(b) was not carrying identification. When asked to provide his name, § 87(2)(b) provided it falsely as § 87(2)(b).

PO Raghoenathsingh said that during the stop of § 87(2)(b) § 87(2)(b) appeared in the hallway. § 87(2)(b) stood observing while § 87(2)(b) was arrested for § 87(2)(b). Sgt. Sujin Samuel then arrived to verify § 87(2)(b)'s arrest.

PO Tomy (BR 18) generally corroborated PO Tomy's account of events.

Sgt. Samuel (BR 23) had no recollection of this incident, and attempts to refresh his recollection were not successful.

The memo books of both PO Raghoenathsingh (BR 15) and PO Tomy (BR 19) closely confirm their timeline of events. The narrative section of the arrest report states that § 87(2)(b) was observed holding a small Ziplock bag of marijuana in his right hand in a public space in plain view (BR 05). A quantity of marijuana was vouchered in support of § 87(2)(b)'s arrest (BR 17).

In the account provided by § 87(2)(b) the marijuana he carried was not in plain view, was in a small quantity, and he did not smell like marijuana, and the stop, frisk, and search of his person was therefore unjustified.

In the account provided by PO Tomy and PO Raghoenathsingh, the stop, and any subsequent frisk and search, of § 87(2)(b) were justified, as he was holding marijuana in plain view upon initial observation.

§ 87(2)(g)

§ 87(2)(g)

**Allegation G – Abuse of Authority: Police Officer Brian Raghoenathsingh stopped § 87(2)(b)**

**Allegation H – Abuse of Authority: Police Officer Sajit Tomy stopped § 87(2)(b)**

**Allegation I – Abuse of Authority: Police Officer Brian Raghoenathsingh questioned § 87(2)(b)**

**Allegation J – Abuse of Authority: Police Officer Sajit Tomy questioned § 87(2)(b)**

**Allegation K – Abuse of Authority: Police Officer Brian Raghoenathsingh frisked § 87(2)(b)**

**Allegation L – Abuse of Authority: Police Officer Brian Raghoenathsingh searched § 87(2)(b)**

It is undisputed that PO Raghoenathsingh and PO Tomy stopped § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) (BR 12 and 13) said that on December 5, 2015, at around 11 p.m., he was at his apartment, § 87(2)(b) Apartment 19I, in Manhattan, when his friend, § 87(2)(b) called and asked to come over. § 87(2)(b) was aware at that time that § 87(2)(b) would be bringing a quantity of marijuana with him.

Approximately a half an hour after speaking to § 87(2)(b) § 87(2)(b) called him, as he had not come over as expected. § 87(2)(b) called § 87(2)(b) multiple times but § 87(2)(b) did not answer. Eventually, at approximately 11:50 p.m., someone called § 87(2)(b) from § 87(2)(b)'s cell phone. § 87(2)(b) initially thought this person might have been § 87(2)(b)'s little brother until the person asked which apartment § 87(2)(b) was in, which caused § 87(2)(b) to become suspicious as § 87(2)(b) knew what apartment § 87(2)(b) lives in. § 87(2)(b) asked where § 87(2)(b) was and the person said, “§ 87(2)(b) come in the staircase.”

§ 87(2)(b) left his apartment and went to the staircase between the § 87(2)(b) and § 87(2)(b) floors, where he saw § 87(2)(b) who was handcuffed, standing with two officers, identified by the investigation as PO Tomy and PO Raghoenathsingh. Without speaking to § 87(2)(b) PO Tomy and PO Raghoenathsingh ran up the stairs to § 87(2)(b) PO Raghoenathsingh grabbed one of § 87(2)(b)'s arms and pinned his back against the wall. § 87(2)(b) thought PO Raghoenathsingh did this because he thought § 87(2)(b) would run. PO Raghoenathsingh asked § 87(2)(b) if he had any marijuana on his person. § 87(2)(b) replied that he did not. PO Tomy then patted down the exterior of § 87(2)(b)'s right shorts

pocket and then reached inside of it, removing a lighter § 87(2)(b) carried there. PO Tomy did not frisk or search § 87(2)(b)'s other pockets, but did ask him if the lighter was the only thing he had on him. § 87(2)(b) responded by taking out the marijuana grinder that he had in his left pocket, which he handed to PO Tomy. During this frisk and search, PO Raghoenathsingh asked § 87(2)(b) why he was meeting § 87(2)(b) and suggested that § 87(2)(b) invited § 87(2)(b) over with the intention of selling him marijuana.

PO Tomy looked inside § 87(2)(b)'s marijuana grinder. PO Tomy asked PO Raghoenathsingh whether they could arrest § 87(2)(b) for having the traces of marijuana in the grinder. § 87(2)(b) told the officers that he could have up to 25 grams of marijuana on him without being arrested. PO Tomy said, "We could still take you in, though." PO Raghoenathsingh said that § 87(2)(b) could not be arrested for these traces of marijuana, but that the officers would at minimum confiscate it. PO Raghoenathsingh then produced a roll up and a quantity of marijuana that had previously been confiscated from § 87(2)(b) and ordered § 87(2)(b) to smoke it. § 87(2)(b) refused as this would constitute a misdemeanor.

PO Tomy then asked § 87(2)(b) for his name and his address, which § 87(2)(b) verbally provided. PO Tomy asked § 87(2)(b) why he was on the § 87(2)(b) floor if he lived on the § 87(2)(b) floor. § 87(2)(b) explained that his godfather, who he occasionally lives with, resides on the § 87(2)(b) floor. PO Tomy attempted to check § 87(2)(b)'s name for warrants, but seemed unable to do so for an unknown reason. PO Raghoenathsingh placed § 87(2)(b) into handcuffs and told him that he was not being arrested, but that the officers needed to detain him. PO Tomy began writing a summons for § 87(2)(b) without requesting his identification.

PO Raghoenathsingh requested a supervisor to the scene via radio. A supervisor, identified by the investigation as Sgt. Sujin Samuel, responded. Sgt. Samuel informed § 87(2)(b) that they were going to confiscate his marijuana grinder. § 87(2)(b) was then released from his handcuffs. PO Tomy then handed § 87(2)(b) a summons for § 87(2)(b). The officers then left with § 87(2)(b). § 87(2)(b) estimated that in total his entire encounter with the officers lasted about 45 minutes, for 20 minutes of which § 87(2)(b) was handcuffed.

§ 87(2)(b) (BR 31 and 32) said once § 87(2)(b) appeared in the stairwell, PO Tomy approached him and without first speaking to him began to pat down § 87(2)(b)'s clothing. § 87(2)(b) was wearing sweatpants and a white thermal t-shirt. There were no visible bulges in § 87(2)(b)'s clothing. PO Tomy felt the exterior of § 87(2)(b)'s sweatpants pockets and then reached inside of them, removing cigarillos and a marijuana grinder. PO Tomy then opened the marijuana grinder, revealing a speck of marijuana inside. PO Tomy handcuffed § 87(2)(b).

PO Raghoenathsingh and PO Tomy spoke amongst themselves about what to do with § 87(2)(b) for having the marijuana grinder. PO Raghoenathsingh then grabbed the cigarillos recovered from § 87(2)(b) and the marijuana previously recovered from § 87(2)(b) looked at § 87(2)(b) and told him, "You're going to roll this up and smoke it." PO Raghoenathsingh and PO Tomy then appeared to change their mind. PO Tomy released § 87(2)(b) from his handcuffs, issued him the summons, and released him. Only after § 87(2)(b) was released did additional officers arrive to the scene. § 87(2)(b) at no point saw PO Tomy and PO Raghoenathsingh leave the stairwell to go to § 87(2)(b)'s apartment.

PO Raghoenathsingh (BR 14) said that on December 6, 2015, at approximately 12:10 a.m., PO Raghoenathsingh and PO Tomy were conducting an interior vertical patrol of § 87(2)(b).

§ 87(2)(b) when they encountered § 87(2)(b) in the § 87(2)(b) floor stairwell. § 87(2)(b) was standing in the stairwell holding a silver marijuana grinder in his right hand. § 87(2)(b) was twisting the two parts of the grinder in opposite directions at the time. PO Raghoenathsingh did not smell any marijuana at this time.

PO Raghoenathsingh and PO Tomy observed § 87(2)(b) for approximately 15 to 20 seconds before they approached him. When § 87(2)(b) noticed the officers, he closed his hand over his grinder like a fist. The officers asked § 87(2)(b) what he was holding in his hand. § 87(2)(b) replied that it was nothing. When the officers asked a second time, § 87(2)(b) identified the object as a grinder, which he voluntarily provided to PO Tomy.

PO Tomy opened the grinder and observed a “good amount” of marijuana residue inside. PO Raghoenathsingh did not conduct a field test of the marijuana residue and was unsure if PO Tomy did so, but PO Raghoenathsingh is trained in identifying marijuana and from his training positively identified the residue inside as marijuana.

§ 87(2)(b)'s identification was requested. § 87(2)(b) had no identification. PO Raghoenathsingh told § 87(2)(b) that because he had no identification, he would be handcuffed for safety while they verified his identity. Aside from the need to verify § 87(2)(b)'s identity, and the generally crime-prone nature of § 87(2)(b) which is a NYCHA location, PO Raghoenathsingh had no other reason to be concerned for his safety. § 87(2)(b) was calm and compliant throughout their encounter. PO Raghoenathsingh explained to § 87(2)(b) that he was not under arrest.

Once § 87(2)(b) was handcuffed, PO Raghoenathsingh frisked § 87(2)(b)'s waistband, outer clothing, and outer pockets to check for knives. There was no prior indication that § 87(2)(b) had a knife on his person. PO Raghoenathsingh observed no bulges on § 87(2)(b)'s clothing, nor did he observe § 87(2)(b) make any suspicious movements. PO Raghoenathsingh felt nothing during the frisk that felt consistent with a weapon. Neither PO Raghoenathsingh nor PO Tomy ever searched § 87(2)(b).

§ 87(2)(b) told the officers that his father lived in one of the apartments on the § 87(2)(b) floor. PO Tomy left the stairwell to get § 87(2)(b)'s father. PO Tomy returned to the stairwell with § 87(2)(b)'s father, who confirmed § 87(2)(b)'s identity. PO Raghoenathsingh then removed § 87(2)(b) from his handcuffs. PO Tomy issued him a summons for § 87(2)(b) (BR 04). The marijuana grinder was seized and vouchered as evidence in support of the summons (BR 16). As per PO Raghoenathsingh's memo book (BR 15), the summons was issued at 12:15 a.m.

PO Raghoenathsingh and PO Tomy then resumed their vertical patrol. At 12:20 a.m., they encountered § 87(2)(b) on the § 87(2)(b) floor, waiting for the elevator and holding a baggie of marijuana in one hand and speaking on his cell phone in his other hand. PO Raghoenathsingh and PO Tomy approached § 87(2)(b) and asked if he lived in the building. § 87(2)(b) said he did not live in the building, but said he had friends in the building. § 87(2)(b) was also not carrying identification, and when asked to provide a name provided it falsely as § 87(2)(b). While speaking to § 87(2)(b), § 87(2)(b) came into the § 87(2)(b) floor hallway and told PO Raghoenathsingh and PO Tomy that § 87(2)(b) was his friend. § 87(2)(b) remained in the hallway as a witness while the officers arrested § 87(2)(b) for § 87(2)(b). Sgt. Samuel then arrived at § 87(2)(b) to verify § 87(2)(b)'s arrest.

PO Raghoenathsingh denied that he or PO Tomy ever used § 87(2)(b)'s cell phone to call § 87(2)(b). PO Raghoenathsingh denied that he or PO Tomy ever gave marijuana to § 87(2)(b).



§ 87(2)(b) and told him, “Okay, here’s what you’re going to do. You’re going to roll this up and you’re going to smoke it.” PO Raghoenathsingh denied that he or PO Tomy asked § 87(2)(b) any questions about his intent to sell marijuana. PO Raghoenathsingh could not recall if he or PO Tomy ever asked § 87(2)(b) if he had any additional marijuana on his person, though he acknowledged it was “possible” one of them did ask § 87(2)(b) about this.

PO Tomy (BR 18) provided a statement that closely corroborated that of PO Raghoenathsingh, with the following additions. PO Tomy said that upon observation of § 87(2)(b) in the § 87(2)(b) floor stairwell, he was able to smell an odor of marijuana emanating from the grinder § 87(2)(b) carried.

PO Tomy and PO Raghoenathsingh then approached § 87(2)(b) who made no motions as though attempting to flee. PO Tomy asked § 87(2)(b) what he was doing and removed the grinder from § 87(2)(b) s hands without incident, opened it, and observed marijuana residue inside the grinder. § 87(2)(b) informed the officers that he was waiting for a friend, but did not identify this friend.

PO Tomy asked § 87(2)(b) if he lived in the building. § 87(2)(b) said he lived on the 19<sup>th</sup> floor. PO Tomy asked § 87(2)(b) for his name and date of birth, which § 87(2)(b) provided. § 87(2)(b) had no identification, and so was handcuffed. PO Tomy had no indication that § 87(2)(b) might flee, and did not fear for his safety, but handcuffed § 87(2)(b) to ensure that he did not have a chance to run away while the officers were attempting to verify his identity.

Once § 87(2)(b) was handcuffed, PO Raghoenathsingh frisked § 87(2)(b) s chest, torso, and waistband for weapons, which returned negative results. PO Tomy had no indication that § 87(2)(b) was armed. PO Tomy asked § 87(2)(b) if he had any weapons on him. § 87(2)(b) said that he had only a wrapper in his pocket. § 87(2)(b) was handcuffed only loosely, and so was able to reach into his own pocket, remove the wrapper, and throw it on the ground. PO Tomy also believed that § 87(2)(b) said, “You can search me. I don’t have anything else,” but neither PO Tomy nor PO Raghoenathsingh searched § 87(2)(b) s pockets.

PO Tomy fetched § 87(2)(b) s father, who identified § 87(2)(b) as his son. PO Tomy issued a summons to § 87(2)(b) and continued his vertical patrol with PO Raghoenathsingh, whereupon they encountered § 87(2)(b) § 87(2)(b) approached and observed their interaction with § 87(2)(b).

PO Tomy’s memo book entries (BR 19) closely corroborate the entries made by PO Raghoenathsingh.

Sgt. Samuel (BR 23) was interviewed at the CCRB on July 8, 2016, approximately seven months after this incident. As per his memo book (BR 24), at 1:32 a.m., Sgt. Samuel transported § 87(2)(b) to PSA 5 for arrest processing. Sgt. Samuel denied any recollection of this incident, and attempts to refresh his recollection were not successful. Sgt. Samuel was not interviewed by Housing Bureau Investigations Unit as part of their investigation.

§ 87(2)(b) resides with his godfather, § 87(2)(b) not his father. On March 4, 2016, officers of Housing Bureau Investigations interviewed § 87(2)(b) (BR 03). § 87(2)(b) denied that he ever spoke to PO Tomy or to PO Raghoenathsingh during this incident, and that he only knew of the incident from what § 87(2)(b) later told him. § 87(2)(b) confirmed that there is no other male who resides in that apartment who could be confused for § 87(2)(b) s father.

The CCRB did not establish contact with § 87(2)(b) until June 13, 2016 (BR 20). § 87(2)(b) initially said he believed he spoke to police officers about this incident on the day that it happened and confirmed to them that § 87(2)(b) lived in the building, but believed they were in plainclothes, not uniform, and ultimately said that he could not remember what they discussed or when. § 87(2)(b) could not in any way describe these two officers. § 87(2)(g)

Cell phone records retrieved from § 87(2)(b)'s cell phone service provider, SPRINT, confirm that § 87(2)(b) exchanged five calls with § 87(2)(b)'s phone number on the incident date (BR 21). § 87(2)(b) called § 87(2)(b) at 11:25 p.m. on December 5, 2015. The call lasted 85 seconds. § 87(2)(b) then called § 87(2)(b) twice, once at 11:55 p.m. and a second time at 11:58 p.m. Both calls lasted approximately 30 seconds. At 11:59 p.m., § 87(2)(b) called § 87(2)(b). The call lasted 79 seconds. § 87(2)(b) again called § 87(2)(b) at 12:03 a.m. on December 6, 2015. This fifth call lasted approximately 25 seconds. § 87(2)(g)

The EVENT report (BR 22) shows that approximately 12:26 a.m., either PO Raghoenathsingh or PO Tomy called the dispatcher and said, "Show me with two males stopped inside of § 87(2)(b) no further to my location." Approximately three minutes later, PO Raghoenathsingh called the dispatcher and said, "Show me with one under. Sergeant on the scene. Can I get an under time? Also can you mark the other male 96x1." The under time was provided at 12:29 a.m. § 87(2)(g)

The Housing Bureau Investigations Unit recommended that the allegations against PO Raghoenathsingh and PO Tomy be closed as unsubstantiated (BR 03), as they were not able to obtain a statement from § 87(2)(b)

Where the person approached might reasonably deduce from an officer's questions that he is suspected of some wrongdoing, the encounter rises from a request for information to a common-law inquiry that must be supported by founded suspicion of criminality. People v. Hollman, 79 N.Y.2d 181 (1992) (BR 25) The odor of marijuana emanating from a pedestrian is sufficient to give rise to founded suspicion. People v. Brukner, N.Y. Slip op 25434 (2015) (BR 26) An officer may stop a person only if he reasonably suspects that person is committing, has committed, or is about to commit a crime. People v. De Bour, 40 N.Y.2d 210 (1976) (BR 27)

A frisk is permissible only if an officer possesses a particularized, reasonable suspicion that a suspect is armed and dangerous. People v. Gonzalez, 295 A.D.2d 183 (2002) (BR 28) Once the limited intrusion of a protective frisk fails to reveal a weapon and the basis for the officer's fear for his safety has abated, the officer may not search an individual. People v. Rodriguez, 856 NYS 2.d. 502 [Sup. Bronx] (2008) (BR 29)

§ 87(2)(g)

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Squad:

Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Squad Leader: \_\_\_\_\_

	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date